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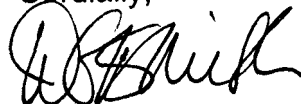
April 7, 1998

The Honorable John M. McHugh
Chairman
Committee on Government Reform
and Oversight
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515

Dear Congressman McHugh:

Enclosed please find the Air Courier Conference of America's
comments for The Postal Reform Act of 1997 - Proposed Revisions
(HR 22). Thank you for allowing ACCA to submit these comments.

Cordially,



Donald G. Smith
President

Enclosure

T006

Comments of the Air Courier Conference of America on ~~The Postal Reform Act of 1997~~ Proposed Revisions (HR 22)

The Air Courier Conference of America (ACCA) would like to thank the Subcommittee for the opportunity to comment on the proposed revision to the Postal Reform Act of 1997 - Proposed Revisions (HR 22). ACCA would like to commend Chairman John McHugh and his staff for their work on this complicated issue. The proposed revisions to HR 22 would be a key initial step in removing the privileges that allow the U.S. Postal Service to unfairly compete with private companies, and would provide a sound basis for moving forward with postal reform.

The following comments are based on the "white paper" released by the Postal Service Subcommittee. ACCA reserves the right to further comment on the specific legislative language when that is made available.

The proposed changes to HR 22 are promising because they are balanced and evenhanded in recognizing that government agencies such as the Postal Service should not be able to compete unfairly with private businesses. HR 22 will give the Postal Service new commercial flexibility, especially in the competitive area, and clear authority to expand in new markets. At the same time, the interests of private competitors will be protected by requiring the Postal Service, when offering competitive products, to operate under essentially the same legal and economic conditions as faced by private companies.

TITLE I

HR 22 would modify the powers of the Postal Rate (Regulatory) Commission (PRC) in regulatory respects. In particular, increasing the powers of the PRC to obtain information from the Postal Service is a step in the right direction for ensuring a more level-playing field between the Postal Service and private sector competitors.

TITLE II

The revision proposes to vest the authority to lead U.S. delegations at inter-governmental postal organizations with the U.S. Trade Representative instead of the Postal Service. Currently, the Postal Service is in the position to shape international law to suit its own ends by entering into agreements that give preference to the Postal Service in the provision of competitive products. Further, HR 22 would prohibit the Postal Service from entering into an

agreement with foreign governments or foreign post offices that give special preference to the Postal Service in the provision of competitive products,

This provision is critical due to the fact that the next Universal Postal Union **Congress** (UPU) is set to meet in August of 1999 in Beijing, China. If this legislation is not acted on immediately, the Postal Service will be permitted to represent itself at this intergovernmental organization which sets agreements for the next five years. Proposals for the 1999 Congress must be in the hands of the International Bureau by February 23, 1999 - six months prior to the opening of the UPU. The time is now to resolve this basic flaw with the original Postal Reform Act of 1970.

TITLE IV

The establishment of the "Postal Service Competitive Products Fund" requires the Postal Service to track revenues and expenditures of competitive products separately and deprives competitive products of the full faith and credit of the United States. ACCA supports this approach and also agrees with the concept of the proposed private law corporation being self-sufficient - succeeding or failing on its own merits. However, the Competitive Products Fund may borrow funds from the Postal Service Fund, which is controlled by the Postal Service. Great care must be taken in drafting the language to ensure that the Postal Service ~~does not receive advantageous treatment to the postal at the expense of market competitors.~~

In order to participate in competitive markets, ACCA understands that the Postal Service desires to get the ability to offer volume discounts and negotiated service agreements. However, ACCA maintains that in doing so, the Postal Service must set rates which cover attributable costs and that these lowered rates bear an equal proportion of institutional costs as noncompetitive monopoly products. ACCA is anxious to see how this concept will be addressed in legislative language and whether it is actually possible to permit both competitive and non-competitive products to cover costs when they share common overhead costs.

TITLE VI

ACCA supports increasing the authority of the PRC by granting subpoena authority over evidentiary hearings, postal services, rate cases, complaints and audit responsibilities including extension to the private law corporation.

The major component of the proposed revision is that the Postal Service's ~~participation in competitive markets must be, to the maximum extent possible,~~ on the same terms and conditions as faced by private sector competitors. When the Postal Service enters into competitive operations, it must not leverage captive customer revenues in efforts to finance these non-postal and competitive ventures.

ACCA supports the fire-walls established by the revision between the competitive and non-competitive products to ensure that the Postal Service does not subsidize its competitive products with revenues generated from its non-competitive products. If a competitive product persistently fails to cover its attributable costs, or persistently fails to contribute to institutional costs, ACCA supports granting the PRC the authority to order such products withdrawal:

TITLE VII

ACCA supports relaxing the scope of the letter mail monopoly to \$2 for the private carriage of letters. The General Accounting Office (GAO) has previously testified that "the impact of reducing the scope of the mail monopoly...would not significantly affect the Postal Service's ability to provide affordable universal service..." This provision is an excellent step in the direction of leveling the playing field among market players and increasing real consumer choice.

TITLE X

The proposed changes give the PRC needed authority over international postal rates, which currently operate in a regulatory no-man's land. A perfect example of the Postal Service's abuse in the international arena can be seen in a recent article in *Business Mailers Review* (BMR). BMR reported that a 1998 Postal Service Marketing Plan showed that data for international services had been misreported in the 1996 Cost and Revenue Analysis (CRA) and the 1997 Rate Case. The Marketing Plan showed cost coverage for the International Business Unit (IBU) products would be 57%. The Postal Service discounted the BMR conclusion stating that the data reported in the marketing plan was wrong. Without proper oversight on international rates and services, the Postal Service will continue to abuse its power to set rates without any accountability.

ACCA supports subjecting the Postal Service to the fullest extent of the anti-trust provisions of the Clayton Act, the Sherman Act, and provisions of the Federal Trade Commission Act for products in the competitive category of mail or those that are marketed as experimental products. ACCA supports expanding applicability of other laws to the Postal Service including the Lahnam Act liability to all Postal Service activities. The revision would prohibit the Postal Service from violating anti-trust laws to protect itself against competition. Several recent court decisions on this subject have ruled against the Postal Service² in these areas. The proposed revision is simply codifying what the courts have discovered.

ACCA supports: subjecting the Postal Service to same government rules and regulations regarding parking and vehicular operations as faced by private companies; subjecting the Postal Service's international products to the same customs and VAT laws as faced by private companies; and, the application of local zoning, planning, or land use regulations and building codes to the Postal Service. The above requirements present a move in the direction of holding the Postal Service accountable for their activities in the competitive arena. By

requiring the Postal Service to abide by the ~~same rules as~~^{same} market competitors, the Subcommittee has begun to level the playing field between the Postal Service and its private sector competitors.

CONCLUSION

ACCA supports the efforts of the Chairman and his staff. ACCA looks forward to reviewing the legislative language and submitting final comments and suggestions to the committee. We look forward to working towards postal reform this Congress.

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Due to the proposed increase of responsibilities, authority and role of the Postal Rate Commission in the Revision, ACCA supports the enhanced name of Postal Regulatory Commission for the Postal Rate Commission.

Federal Express Corporation v. U.S. Postal Service, 959 F. Supp. 832, 43 U.S. PQ 2d 1254 (W.D. Tenn., March 21, 1997); *U.S. Postal Service v. Global Mail Limited* (U.S. Dist. Ct. Eastern District of VA.); *U.S. v. Quick International Courier, Inc.* 131 F.3d 770 (8th Cir. (Minn.), December 22, 1997).